

(S)
N. J. L.
18/7

The Gazette of India



EXTRAORDINARY
PART II—Section 3—Sub-section (i)
PUBLISHED BY AUTHORITY

No. 52] NEW DELHI, SATURDAY, APRIL 11, 1959/CHAITRA 21, 1881

SUPREME COURT OF INDIA

NOTIFICATION

New Delhi, the 8th April 1959

G.S.R. 434.—The following is published for general information:

AMENDMENTS TO SUPREME COURT RULES, 1950.

The Supreme Court of India, in exercise of its rule-making powers and with the approval of the President, hereby makes, with effect from the 15th April, 1959, the following further amendments to the Supreme Court Rules, 1950, namely:—

In the said Rules—

I. IN ORDER I,

Rule 2 (1) shall be recast as follows:—

"2 (1). In these Rules, unless the context otherwise requires—

'Advocate' means a person entitled to appear and plead before the Court;

'Advocate on Record' means an Advocate who is entitled under these Rules to act as well as to plead for a party in the Court;

'Chief Justice' means the Chief Justice of India and includes a judge appointed under Article 126 of the Constitution to perform the duties of the Chief Justice;

'Code' means the Code of Civil Procedure, 1908;

'Constitution' means the Constitution of India;

'Court' and 'this Court' mean the Supreme Court of India;

'Court appealed from' includes a tribunal and any other judicial body from which an appeal is preferred to the Court;

'Deputy Registrar' means the Deputy Registrar, Judicial, of the Court;

'High Court' means—

(i) as respects anything done before the commencement of the Constitution, a High Court within the meaning of section 219 of the Government of India Act, 1935; and

(ii) as respects anything done or to be done after the commencement of the Constitution, a High Court established by or recognised under the Constitution;

'Judge' means a Judge of the Court;

'Judgement' includes decree, order, sentence or determination of any court, judge or judicial officer;

'Party' and all words descriptive of parties to proceedings before the Court (as 'appellant' 'petitioner' 'respondent' 'plaintiff' 'defendant' and the like) include, in respect of all acts proper to be done by an Advocate on Record the Advocate on record of the party in question, where such party is represented by an Advocate on record

Prescribed means prescribed by or under these Rules,

Record' in Part II of these Rules means the aggregate of papers relating to an appeal (including the pleadings proceedings, evidence and judgments) proper to be laid before the Court at the hearing of the appeal,

'Registrar and Registry mean respectively the Registrar and Registry of the Court, Respondent' includes an intervenor,

'The Rules' and 'Rules of Court mean these Rules and include the forms appended to these Rules, and

'Taxing Officer' is the officer of the Court whose duty it is to tax costs of proceedings in the Court,

2 IN ORDER II,

For rule 6 the following shall be substituted —

'6 The Chief Justice may appoint one or more judges to hear during each summer vacation all matters of an urgent nature which under these Rules may be heard by a Judge sitting singly and whenever necessary he may likewise appoint a Division Court for the hearing of urgent cases during the vacation which require to be heard by a Bench of Judges

3 IN ORDER III,

(1) In rule 5 after the word 'Registrar' the words or Deputy Registrar' shall be added

(2) For rule 7, the following shall be substituted

"7 (1) The Registrar shall keep a list of all cases pending before the Court, and shall, at the commencement of each term, prepare and publish on the Court notice Board a list of all cases ready for hearing in each class separately, to be called the ready list. The cases in the ready list shall be arranged year wise in each class separately in the order of their registration, and the list shall be added to from time to time as and when fresh cases become ready for hearing.

(2) Out of the ready list, the Registrar shall settle and publish on the Court notice Board at the end of each month a list of cases to be heard during the following month. Subject to any general or special directions that may be given by the Chief Justice and subject to the orders of the Court and the other provisions in these Rules, the cases listed for hearing in the monthly list in each class shall be in the order in which the cases have been registered. From out of the monthly list, the Registrar shall settle and publish at the end of each week a list of cases to be heard in the following week, as far as possible, in the order in which they appear in the monthly list, subject to the directions of the Chief Justice and of the Court, if any, and out of the weekly list shall publish at the end of each day a daily list of cases to be heard by the Court on the following day"

(3) In rule 8, item (vii), for the words 'plaint, petition or appeal the words 'plaint, appeal, petition or other proceeding' shall be substituted

4. IN ORDER IV,

(1) For rule 3, the following shall be substituted

3 A person shall not be qualified for being enrolled as an Advocate unless he—

(1) (a) possesses a degree in law of an Indian University,

or

(b) is a member of the English Bar or an Attorney of a High Court,

and

(2) is enrolled as an Advocate in a High Court in the territory of India

(2) In rule 4, for item (iii), the following shall be substituted

"A certificate of character obtained from a Judge of the aforesaid High Court or from the Attorney General for India or the Solicitor General of India or the Additional Solicitor General of India or the Advocate General of the State concerned."

(3) In rule 7, after the words 'advice on evidence', the words 'statement of case', and after the words 'of an analogous kind,' the words 'in any Court,' shall be inserted.

(4) In rule 11, the words 'before which the question arises', shall be added at the end.

(5) For rules 15 to 19, the following rules shall be substituted:

"15. Any Advocate of this Court not being a Senior Advocate may, on his fulfilling the conditions laid down in rule 16, be registered in the Court as an Advocate on record, and on such registration, he shall be entitled to act as well as to plead for any party in a proceeding on his filing in that proceeding a memorandum of appearance accompanied by a Vakalatnama duly executed by the party in the prescribed form.

No Advocate other than an Advocate on record shall be entitled to file an appearance or act for a party in the Court.

16. No Advocate shall be qualified to be registered as an Advocate on record unless he—

(1) has passed such written tests as may be held by the Court for Advocates who apply to be registered as Advocates on record, particulars whereof shall be notified in the Gazette of India from time to time; provided however that an Attorney shall be exempted from the tests;

(2) has an office in Delhi within a radius of 10 miles from the Court-house and gives an undertaking to employ, within one month of his being registered as Advocate on record, a registered Clerk; and

(3) pays a registration fee of Rs. 25/-.

17. Where an Advocate, who is already registered as an Advocate on record does not have a registered Clerk, he shall, within one month from the date of the publication of these amendments give an undertaking that within six months from the said date he will provide himself with a registered Clerk.

18. Where an Advocate on record ceases to have an office and/or a registered clerk as required by clause (2) of rule 16, or fails to give the undertaking required by the last preceding rule, or acts in breach of his undertaking, notice shall issue to such Advocate to show cause before the Chamber Judge on a date fixed, why his name should not be struck off the register of Advocates on record, and if the Chamber Judge thinks fit to make such an order, the name of such Advocate shall be removed from the register accordingly, and the Advocate shall thereafter cease to be entitled to act as an Advocate on record.

19. Any Advocate on record may at any time by letter request the Registrar to remove his name from the register of Advocates on record, absolutely or subject to his continuing to act as Advocate on record in respect of all or any of the pending cases in which he may have filed a Vakalatnama, of which he shall file a list. The Registrar shall thereupon remove his name from the Register of Advocates on record, absolutely or subject as aforesaid."

(6) For rule 22, the following shall be substituted:

"22 (1) An Advocate on record or a firm of Advocates may employ one or more clerks to attend the Registry for presenting or receiving any papers on behalf of the said Advocate or firm of Advocates, provided that the clerk has been registered in the Registry as the Clerk of such Advocate or firm of Advocates on application made to the Registrar in the prescribed form by such Advocate or firm of Advocates.

(2) Notice of every application for the registration of a clerk shall be given to the Secretary, Supreme Court Bar Association, who shall be entitled to bring to the notice of the Registrar within 7 days of the receipt of the notice any facts which in his opinion may have a bearing on the suitability of the clerk to be registered.

(3) The Registrar may decline to register any clerk who in his opinion is not sufficiently qualified, or is otherwise unsuitable to be registered as such, and may for reasons to be recorded in writing, remove from the Register the name of any clerk after giving him and his employer an opportunity to show cause against such removal. Intimation shall be given to the Secretary, Bar Association, of every order registering a clerk or removing a clerk from the register.

(4) Every clerk shall, upon registration, be given an identity card which he shall produce whenever required, and shall surrender when he ceases to be the clerk of the Advocate or firm of Advocates, for whom he was registered. Where a fresh identity card is required in substitution of one that is lost or damaged, a fee of Rs. 3 shall be levied for the issue of the same.

(5) Every Advocate on record shall have a registered clerk. No Advocate may employ as his clerk any person who is a tout."

(7). Rule 30 shall be deleted.

(8) For rule 31, the following shall be substituted:

"31. Two or more Advocates, not being Senior Advocates, may enter into a partnership with each other, and any partner who is an advocate on record may act in the name of the partnership provided that the partnership is registered with the Registrar. Any change in the composition of the partnership shall be notified to the Registrar."

(9) Rule 32 shall be deleted.

5. After Order IV, the following Order IV-A shall be inserted.

"ORDER IV-A.

Professional or other misconduct

1. Where an Advocate of the Supreme Court is suspended or removed by a High Court from its rolls for professional or other misconduct, he shall, unless otherwise ordered by this Court, be deemed, as from the date of the order of the High Court, to be suspended or removed, as the case may be, from the rolls of this Court for the same period as mentioned in the order of the High Court, and on receipt of intimation from the Registrar of the High Court of the said order, the Registrar of this Court shall forthwith cause appropriate entries to be made on the rolls of this Court against the name of such Advocate. Where the Advocate concerned is reprimanded by the High Court for such misconduct, an entry to that effect shall be made against his name in the rolls of this Court.

2. A complaint made to this Court of professional or other misconduct against an Advocate of this Court, shall be supported by an affidavit of the complainant or other person conversant with the facts, setting out the facts on which the complaint is made. On receipt of the complaint, the Chief Justice shall refer it to a committee of three Judges to consider the same. If on such reference the complaint is not summarily rejected as being frivolous, the Chief Justice shall constitute a tribunal consisting of three members of the Supreme Court Bar, of whom two shall be Senior Advocates, and refer the complaint to such tribunal for enquiry. The Chief Justice shall appoint one of the Senior Advocate members of the tribunal to be its President.

3. Upon the reference being made to the tribunal constituted as aforesaid, the complainant shall file 9 additional copies of the complaint, affidavits and other relevant papers, and the Registrar shall forward to the President of the tribunal the original complaint, the affidavits and other documents filed therewith, with three additional copies thereof.

4. The Chief Justice may appoint the Registrar, the Deputy Registrar or an Assistant Registrar of this Court to be *ex-officio* Secretary to the tribunal.

5. Upon receipt of the case referred to it for enquiry, the tribunal shall fix a date, hour and place for the enquiry, and shall give not less than 21 days' notice thereof to the complainant and the Advocate concerned. A copy of the complaint shall be served on the Advocate along with the notice, and the notice shall require him to file with the Secretary to the Tribunal his written answer to the complaint not later than 2 days before the day fixed for the hearing, together with 5 copies thereof. The tribunal may if it thinks fit, extend the time for filing the answer.

6. The enquiry before the tribunal shall be private, but shall as far as possible be conducted as a proceeding in a Civil Court, and the complainant and the Advocate concerned shall be entitled to appear by counsel.

7. In default of appearance of the complainant or the Advocate concerned, or both, the tribunal may proceed *ex-parte* and make such enquiry as it thinks fit.

8. If, after considering the complaint and the explanation offered by the Advocate if any, the tribunal is of the opinion that a *prima facie* case has not been made out, it shall record a finding to that effect and return the records of the case to the Registrar together with its report.

9. If the tribunal considers that further enquiry is necessary, it shall proceed to hear the complainant and take all such evidence as may be adduced in support of the complaint. The tribunal shall thereafter take all such evidence as may be adduced by or on behalf of the Advocate concerned, and may also, if it thinks it necessary in the interests of justice, examine any other intem. Save as provided herein, the witnesses shall be produced, examined, cross-examined and re-examined in the manner prescribed by the Code.

10. The Advocate concerned shall be a competent witness on his own behalf and if so examined, he may be cross-examined by the complainant.

11. Evidence given before the tribunal shall be recorded in English either by a shorthand writer who shall take down *verbatim* both questions and answers, or by or under the personal direction and superintendence of the President, not ordinarily in the form of question and answer, but in that of a narrative. The evidence, when completed, shall be transcribed if recorded in short-hand, and shall be read over to the witness by or in the presence of the Secretary and the witness shall thereupon sign the same. Where the witness objects to any part of the evidence as being incorrectly recorded, the Secretary shall record the objection and the President may, if he thinks fit, correct the evidence accordingly in the presence of the witness. The evidence as recorded and signed by the witness, shall be attested by the President, and shall form part of the record.

12. The tribunal may from time to time fix the date, hour and place for the enquiry, and may adjourn the enquiry from time to time and make such orders and give such directions regarding the enquiry as it may think fit. Where the date, hour and place for the hearing or any adjournment thereof are not fixed in the presence of the parties, reasonable notice thereof shall be given to them.

13. The notices and processes issued by the tribunal shall be issued in the name of the Court, and shall be served in the same manner as notices and processes issued by the court. The party that calls any witness or witnesses shall, before the process is issued, pay the process fees and the batta for the witnesses summoned, which shall be fixed by the Registrar before the issue of the process. Where the tribunal thinks it necessary to examine any witness not produced by either party, the process fees and the batta for such witness shall be paid by the complainant.

14. The tribunal may, if it thinks it necessary in the interests of justice, of its own motion or upon the application of either party supported by affidavit, issue a commission for the examination upon interrogatories or otherwise of any witness. The commission shall be issued in the name of the Court, and the provisions of Order XLIV of these rules relating to commissions shall, so far as may be, apply to commissions issued under this rule. The tribunal may exercise all the powers of the court under the said provisions. The evidence recorded on a commission issued under this Rule shall be evidence in the enquiry before the tribunal. The expenses of the commission shall be paid in the first instance by the party at whose instance it is issued or, where it is not issued at the instance of either party, by such party as the tribunal may direct. Unless otherwise ordered, the costs of the commission shall be costs in the enquiry.

15. The parties shall be entitled to address the tribunal on the evidence at the enquiry.

16. The finding of the majority of the tribunal shall be the finding of the tribunal, but a dissenting member of the tribunal may record his finding separately.

17. The findings of the tribunal (along with the dissenting findings if any) shall be forwarded to the Registrar together with the evidence and other records in the case.

18. The Court may of its own motion take notice of a professional or other misconduct of an Advocate and the Chief Justice may thereupon refer the matter for enquiry by a tribunal to be constituted as aforesaid and the procedure prescribed herein for an enquiry on a complaint made to the Court shall apply, so far as applicable, to an enquiry under this Rule.

19. On receipt of the finding of the tribunal, the Registrar shall place the same before the Chief Justice who shall fix a date for the hearing of the case and constitute a Bench of not less than three Judges before which it should be heard. Notice of the date fixed for the hearing shall be given to the Advocate concerned, the Attorney General, and the complainant, if any.

20. Upon the hearing of the case, the Court may pass final orders, or, if it thinks necessary, refer the matter to the tribunal for further enquiry and adjourn the case pending the receipt of the findings of the tribunal after such further enquiry. Where the matter is referred to the tribunal for further enquiry, on receipt of the findings of the tribunal after such further enquiry, the case shall be posted before the Court for further hearing after due notice as provided in the last preceding Rule.

21. After such hearing as it may think fit, the Court may, if it finds the Advocate concerned guilty of professional or other misconduct, or of conduct unbecoming an Advocate, reprimand, suspend or remove from its rolls the Advocate, as it may think fit. Where the Court does not find the Advocate guilty, it shall dismiss the complaint. The Court may make such order as to the costs of the enquiry and the hearing before it as it may think fit.

22. Upon an Order being made by this Court reprimanding, suspending or removing from its rolls an Advocate of this Court, the Registrar shall report his name to the High Court in which he is enrolled and shall forward a copy of the judgment of this Court to such High Court. The Registrar shall also notify the other High Courts of the order.

23. An Advocate, who accepts an engagement in any legal business through a person included in the list of touts published as provided in the next following Rule, shall be deemed guilty of professional misconduct.

Explanation.—'Tout' means a person who procures, in consideration of any remuneration moving from any Advocate, or from any person on his behalf, the employment of such Advocate in any legal business, or who proposes to any Advocate to procure, in consideration of any remuneration moving from such Advocate or from any person on his behalf, the employment of the Advocate in such business, or who for purposes of such procurement frequents the precincts of the Court.

24. (1) The Registrar shall publish lists of persons proved to his satisfaction, by evidence of general repute or otherwise, habitually to act as touts, to be known as 'lists of touts', and may, from time to time, alter and amend such lists

A copy of every list of touts shall be kept hung up on the Court notice board.

Explanation.—The passing of a resolution by the Supreme Court Bar Association declaring any person to be a tout shall be evidence of general repute of such person for purpose of this Rule.

(2) No person shall be included in the list of touts unless he has been given an opportunity to show cause against his inclusion in such list. Any person may appeal to the Chamber Judge against the order of the Registrar including his name in such list.

(3) The Registrar may, by general or special order, exclude from the precincts of the Court all such persons whose names are included in the list of touts."

6. IN ORDER V,

(1) In Rule 1,

(i) In Item (3), the following words shall be added at the end:

"or for dispensing with service of notice of the appeal on any of the respondents to the appeal under Rule 5 of Order XVI."

(ii) In item (4), the following words shall be added at the end:

"Save those coming under rule 2 of this Order."

(iii) After item (11), the following items and the proviso shall be added:

(12) Applications for condonation of delay in entering appearance, or in filing petition of appeal or statement of case.

(13) Applications for approval of a translator or interpreter.

(14) Applications for withdrawal of appeal by an appellant prior to his lodging the petition of appeal.

(15) Applications for substitution, except where the substitution would involve setting aside an abatement.

"Provided that where the Registrar does not think fit to excuse the delay in an application under item 12 of this Rule, he shall refer the application to Court for orders."

(2) In Rule 2,

(i) In item (1), the words "where the substitution involves setting aside an abatement" shall be added at the end.

(ii) Item (2) shall be deleted.

(iii) In item (4) after the word 'change', the words 'or discharge' shall be inserted.

(iv) Item (20) shall be deleted.

(v) In item (21), the words 'by Court' shall be deleted.

(vi) For item (30), the following shall be substituted:

"30. Applications for enrolment of Advocates or for registration of Advocates as Advocates on record."

(vii) Item (33)(a) shall be deleted.

(viii) Item (34) shall be deleted, and in its place the following shall be inserted:

"34. Applications by accused persons in custody for being produced before the at the hearing of the appeal."

(ix) In item (36), for the word and figure 'rule 11', the word and figure 'rule 26' shall be substituted.

(x) After item 39, the following items shall be added:

"40. Applications for dispensing with Advocate's certificate in Review Applications."

"41. Applications to dispense with Statements of Case in Criminal appeals."

7. IN ORDER VI,

(1) In Rule 2, after the words '*ex parte* order' the words 'in the notice of motion' and after the words 'if satisfied' the words 'upon affidavit or otherwise', shall be inserted.

(2) For rule 5, the following shall be substituted:

"5. (1) Unless otherwise ordered, the Notice of Motion together with the affidavit in support thereof shall be served on the opposite party not less than 7 days before the day appointed for the motion where such opposite party has entered appearance, and not less than 14 days before the day appointed for the motion where such party has not entered appearance.

Affidavits in opposition shall be filed in the Registry not later than 3 days before the day appointed for the hearing, and affidavits in reply shall be filed not later than 2 P.M., on the day preceding the day of hearing. The affidavits in opposition or reply shall be served on the opposite party or parties and shall not be accepted in the Registry unless they contain an endorsement of service signed by such party or parties.

(2) Leave to serve short notice of motion may be obtained *ex parte* from the Registrar upon affidavit."

(3) After Rule 6, rule 7 shall be added as follows:—

"7. Any interlocutory or miscellaneous application, notwithstanding that it is made in an appeal or other proceeding in which a substantial question of law as to the interpretation of the Constitution is raised, may be heard and decided by a Bench of less than 5 Judges."

8. After Order VI, Order VI-A shall be inserted as follows:—

"ORDER VI-A,

Proceedings by or against Minors and Persons of unsound mind

1. Every appeal, petition or other proceeding by a minor shall be instituted in his name by his next friend. The guardian or next friend of the minor on record in the proceedings in the court appealed from may act as the next friend of the minor in the appeal to this court without a specific order of this court.

2. A next friend shall not retire without leave of the Court. The Court may require him to procure a fit person to be put in his place before he is permitted to retire, and may also, if it thinks fit, require him to furnish security for costs already incurred as a condition of his retirement.

3. (1) On the retirement, removal or death of the next friend of a minor, further proceedings shall be stayed until the appointment of a new next friend in his place.

(2) Where the Advocate on record of such minor omits, within a reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or in the matter in issue may apply to be court for the appointment of one, and the Court may appoint such person as it thinks fit.

4. An application for the appointment of a new next friend shall be supported by an affidavit showing that the person proposed is a fit and proper person to be appointed and has no interest adverse to that of the minor.

5. Where a respondent to an appeal or petition is a minor and is not represented by a guardian, an application shall be made to the Court by the appellant or petitioner as the case may be, or by some person interested in the minor for the appointment of a guardian of such minor, and it shall be supported by an affidavit stating that the proposed guardian has no interest in the matter in question in the appeal or petition adverse to that of the minor. Where a person other than the father or other natural guardian of the minor is proposed as guardian, notice of the application shall be served on the father or other natural guardian of the minor, or on the person with whom the minor resides, not less than 14 days before the day named in the notice for the hearing of the application. Where there is no other person fit and willing to act as guardian, the Court may appoint an officer of this Court to be the guardian.

6. (1) No guardian shall retire from a suit, appeal or other proceeding without the leave of Court. Where a guardian fails to do his duty or other sufficient cause is shown for his removal, the Court may remove him and make such order as to costs as it thinks fit.

(2) Where the guardian retires, dies or is removed by the Court during the pendency of the suit, appeal or other proceeding, the Court shall appoint a new guardian in his place.

7. When a guardian *ad litem* of a minor respondent is appointed, and it is made to appear to the Court that the guardian is not in possession of any, or sufficient, funds for the conduct of the appeal or petition on behalf of the respondent, and that the respondent will be prejudiced in his defence thereby, the Court may, in its discretion, from time to time, order the applicant or petitioner, as the case may be, to advance to the guardian for the purpose of his defence such moneys as the Court may fix, and all moneys so advanced shall form part of the costs of the appellants or petitioner in the appeal or petition, as the case may be. The order shall direct that the guardian do file in court an account of the moneys so received by him.

8. An application to declare as a major a party to a proceeding described as a minor and to discharge his next friend or guardian shall be supported by an affidavit stating the age of the alleged major and the date on which he attained majority. Notice of the application shall be given to the next friend or guardian and to the alleged major.

9. No next friend or guardian of a minor in an appeal or other proceeding, shall, without the leave of the Court, expressly recorded in the proceedings, enter into any agreement or compromise on behalf of a minor with reference to the appeal or proceeding in which he acts as next friend or guardian.

10. An application made to the Court for leave to enter into an agreement or compromise or for the withdrawal of any appeal or other proceeding in pursuance of a compromise on behalf of a minor, shall be supported by an affidavit from the next friend or guardian of the minor stating that the agreement or compromise is for the benefit of the minor, and, where the minor is represented by an Advocate, by a certificate or by a statement at the Bar from such Advocate to the effect that the agreement or compromise is, in his opinion, for the benefit of the minor. A decree or order made in pursuance of the compromise of an appeal or other proceeding, to which a minor is a party, shall recite the sanction of the Court thereto and shall set out the terms of the compromise.

11. The provisions of this Order, so far as they are applicable, shall apply to persons adjudged to be of unsound mind and to persons who, though not so adjudged, are found by the Court on inquiry, by reason of unsoundness of mind or mental infirmity, to be incapable of protecting their interests when suing or being sued.

12. Save as aforesaid, the provisions of Order XXXII of the Code relating to suits so far as applicable, shall apply *mutatis mutandis* to appeals and other proceedings in this Court.

9. IN ORDER VII,

(1) For rule 1, the following shall be substituted:

"The officers of the Court shall not receive any pleading, petition, affidavit or other document, except original exhibits and certified copies of public documents, unless it is fairly and legibly written, typewritten or lithographed in double-line spacing, on one side of standard petition paper, demy-foolscap size, or paper which is ordinarily used in the High Courts for the purpose. Copies filed for the use of the Court shall be neat and legible, and shall be certified to be true copies by the Advocate on record, or by the party in person, as the case may be."

(2) In Rule 3, for the word 'nominated' the word 'appointed' shall be substituted, and at the end of the Rule the following proviso shall be added:

"Provided that a translation agreed to by both parties, or certified to be a true translation by a translator appointed or approved by the Court, may be accepted."

(3) In rule 5, for the words 'of the Court' the words 'on record' shall be substituted.

10. IN ORDER IX,

(1) In Rule 2, for the words 'at the request', the words 'on the application' shall be substituted.

(2) After rule 4, the following to be added as Rule 4-A:—

"4-A. An application may be made to the Registrar for the issue urgently of a copy of any judgement, decree or order of this Court, or of any proceeding filed in this Court, and upon the order being so made, the copy required shall be made ready and issued expeditiously."

11. In Order XI,

- (1) For the heading of the Order, the following shall be substituted —

“Constitution of Division Courts and Powers of a Single Judge.”

- (2) After Rule 2, the following shall be added as Rules 3 and 4 —

3 The Chief Justice may from time to time appoint a Judge to hear and dispose of all applications which may be heard by a Judge in Chambers under these rules.

4. During the vacation the Vacation Judge sitting singly may, in addition to exercising all the powers of a Judge in Chambers under these rules, exercise the powers of the Court in relation to the following matters:—

- (1) Applications for special leave to appeal in urgent cases where interim relief is prayed for, subject to the proviso in Rule 6 of Order XIII
- (2) Applications for stay of execution of a decree or order or stay of proceedings in civil matters
- (3) Applications for transfer under section 527, Criminal Procedure Code
- (4) Applications for stay of proceedings in criminal matters
- (5) Applications under article 32 of the Constitution of an urgent nature which do not involve a substantial question of law as to the interpretation of the Constitution.
- (6) Issue of a rule nisi in urgent applications under article 32 of the Constitution which involve a substantial question of law as to the interpretation of the Constitution.

12. In part I, the present Order XI shall be renumbered as Order V-A, and the present Order XI-A shall be renumbered as Order XI and arranged accordingly

13. In part II, for the heading, the following shall be substituted:

“PART II

Appellate Jurisdiction

(A) Civil Appeals”

14. IN ORDER XII,

- (1) After Rule 4 the following shall be inserted as Rule 4-A:

“4-A. Where, after the admission of an appeal but prior to the despatch of the record to this Court, the parties enter into a compromise of the matters in dispute in appeal and desire to obtain a decree or order in terms thereof, the appellant shall file the deed of compromise in the High Court and apply to the High Court for an order to dispense with the printing of the record and to transmit to this Court such part of the record as may be necessary. On the order being made, the Registrar of the High Court shall transmit to this Court at the expense of the appellant ten copies of the record consisting of the judgment of the High Court, the decree or order made thereon, the certificate of the High Court and the order admitting the appeal, the deed of compromise, the petition to transmit the record and the order made thereon, and such other part of the record as the parties may consider necessary.

- (2) For rule 5, the following shall be substituted:—

“5 Where an appellant whose appeal has been admitted fails to show due diligence in taking all necessary steps in connection with the preparation of the Record, the Registrar of the High Court shall call upon the appellant to explain his default, and if no explanation is offered or if the explanation offered is unsatisfactory, the said Registrar shall call upon the appellant to show cause before the said High Court why a certificate should not be issued that the appeal has not been effectually prosecuted by the appellant. Where the High Court issues such a certificate, the appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without an express order of this Court, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the High Court shall think fit to direct.”

15. IN ORDER XIII,

- (1) For Rule 1, the following shall be substituted:—

“1. A petition for special leave to appeal shall be lodged in the Court within sixty days from the date of the refusal of a certificate by the High Court or within

ninety days from the date of the judgment sought to be appealed from whichever is longer

Provided that—

- (i) in computing the period of ninety days the time requisite for obtaining a certified copy of the judgment sought to be appealed from shall be excluded,
- (ii) where the period of limitation claimed is sixty days from the date of the refusal of a certificate the time taken subsequent to the date of refusal in obtaining a certified copy of the judgment (in cases where no certified copy of the judgment had been obtained prior to the date of such refusal) shall be excluded in computing the period of sixty days,
- (iii) where an application for certificate made to the High Court is dismissed as being out of time, the period of limitation shall count from the date of the judgment sought to be appealed from and not from the date of the dismissal of the said application,
- (iv) where an application for leave to appeal to the High Court from the judgment of a single Judge of that Court has been made and refused, the period from the making of the application to the rejection thereof shall be excluded in computing the period under this Rule,
- (v) the Court may for sufficient cause extend the time on application made for the purpose"

(2) After Rule 1, Rule 1 A shall be inserted as follows —

1 A Where the period of limitation is claimed from the date of the refusal of a certificate, it shall not be necessary to file the order refusing the certificate, but the petition for special leave shall be accompanied by an affidavit stating the date of the judgment sought to be appealed from, the date on which the application for a certificate was made to the High Court the date of the order refusing the certificate, and the ground or grounds on which the certificate was refused, and in particular whether the application for the certificate was dismissed as being out of time"

(3) In Rule 3, after the word Advocate the words on record shall be inserted

(4) Rule 4 shall be numbered as sub-rule (1) of Rule 4 and the following inserted as sub-rule (2) of Rule 4

"(2) No annexures to the petition shall be accepted unless such annexures are certified copies of documents which have formed part of the record of the case in the Court sought to be appealed from, provided that uncertified copies of documents may be accepted as annexures if such copies are affirmed to be true copies upon affidavit"

(5) After Rule 1, the following shall be added as Rule 4 A

'4 A Where any person is sought to be impleaded in the petition as the legal representative of any party to the proceeding in the Court below, the petition shall contain a prayer for bringing on record such person as the legal representative, and shall be accompanied by an affidavit setting out the facts showing him to be the proper person to be entered on the record as such legal representative'

(6) In Rule 6, the following proviso shall be added at the end

"provided that it does not raise a substantial question of law as to the interpretation of the Constitution"

(7) In Rule 8, after the word 'order' the words 'and a certified copy of the petition for special leave and of the affidavit if any filed in support' shall be inserted

(8) In Rule 12, for the word Advocate the words 'Advocate on record' shall, be substituted

16 IN ORDER XIV,

(1) In Rule 2 before the word 'sureties' the words 'security on' shall be inserted after the word 'sureties' the words 'for the costs of the respondent' shall be inserted, and, the words 'and also by a certificate of counsel that the petitioner has reasonable ground of appeal' shall be deleted

(2) Rule 2 shall be renumbered as sub Rule (1) of Rule 2 and the following shall be inserted as sub Rule (2)

"(2) Where the application for leave to proceed as pauper is made in an intended petition for special leave to appeal, the petition shall be accompanied by a

certificate from an advocate of this Court, which shall be in the form of a reasoned opinion, showing that the petitioner has reasonable grounds of appeal."

(3) In Rule 6 A, for the words "assign an Advocate" the words "assign an Advocate on record" shall be substituted.

17. IN ORDER XV,

(1) In Rule 7, the words "Appeals shall be numbered consecutively in each year in the order in which the Records are received in the Registry" shall be omitted.

(2) After Rule 7, the following rules shall be inserted:

- "7-A. (1) Where the record of the appeal is directed to be prepared under the supervision of the Registrar of this Court, he shall, on receipt of the records of the case from the Court appealed from, issue notice to the parties intimating the receipt of the record and requiring them to file, within 3 weeks from the date of service of the notice, their respective lists of the documents which they wish to include in the appeal record; provided that the Registrar may in his discretion dispense with the issue of notice to a respondent who was *ex-parte* in the proceeding before the Court below.
- (2) The parties shall, within the time limited by the notice referred to in the last preceding Rule or such further time as the Registrar may allow, file their respective lists of documents, and any time given to the appellant for filing his list of documents shall ensure to the benefit of the respondent. The appellant shall file along with his list a requisition to draw up an estimate of the cost of preparation of the record. Each party shall serve on every opposite party who has entered appearance a copy of the list filed by him.
- (3) After the expiry of the time fixed for the filing of the lists, the Registrar shall fix a day for the settlement of the list of documents to be included in the appeal record, and shall give notice thereof to the parties who have entered appearance. In settling the list and in the preparation of the record, the provisions of rules 2, 3, 3-A and 4 above shall be observed.
- (4) As soon as the list of documents and the index of the record are settled, the Registrar shall cause an estimate to be prepared of the cost of the preparation of the record in accordance with the rates in the schedule hereto, and a margin of 10 per cent. over the charges calculated according to the said rates, shall be included in the estimate. The estimate shall set out separately the amount to be deposited in Court fees and the amount to be deposited in cash.
- (5) As soon as the estimate is prepared, the Registrar shall cause the same to be served on the appellant, and the appellant shall, within one month of such service, deposit into the Registry the amount of the estimate in Court fees and/or cash as the case may be.
- (6) If, at any time, during the preparation of the record, the amount deposited is found insufficient, the Registrar shall call upon the appellant to deposit such further sum as may be necessary, and, until such deposit is made, shall suspend the preparation of the record. After the preparation of the record, any unpaid balance shall be refunded to the appellant.
- (7) When the record has been made ready the Registrar shall certify the same, and thereupon the appeal shall be registered. The Registrar shall give the parties notice of the certification of the record and the registration of the appeal."
- "7-B. Appeals shall be numbered consecutively in each year in the order in which they are registered."

18. IN ORDER XVI,

(1) In Rule 2, for the words "thirty days" the words "forty five days" shall be substituted; and at the end of rule 2 the following shall be added:

"or, where the record has been prepared under the supervision of the Registrar of this Court, within 45 days from the date of service of the notice of certification of the Record and registration of the appeal."

and the following shall be added as a separate paragraph:

"The appellant shall, along with the petition of appeal, lodge sufficient number of copies of the same for service on the respondents, together with the notices and process fees for such service."

(2) For Rule 5, the following shall be substituted:

"As soon as the petition of appeal is lodged, the Registrar shall cause notice thereof to be served on the respondent together with a copy of the petition of appeal."

The date of the lodgement of the petition of appeal shall be endorsed on the copy served on the respondent.

Provided that the Registrar may dispense with service of the petition of appeal on any respondent who was *ex-parte* in the proceedings in the Court appealed from or on his legal representative:

Provided however that no order dispensing with service of notice shall be made in respect of a respondent who is a minor:

Provided however that an order dispensing with service shall not preclude any respondent or his legal representative from appearing to contest the appeal."

19. IN ORDER XVII,

(1) In Rule 7, for the words "notify all parties concerned of the day so appointed", the words "notify the day appointed on the Court notice Board", shall be substituted,

(2) In Rule 8, for the words "and the Registrar shall not in any such case issue notice as provided by the last preceding rule, but" the words 'but the Registrar' shall be substituted.

(3) In Rule 11, for the word 'Counsel', the word 'Advocate' shall be substituted.

20. IN ORDER XVIII,

(1) For Rule 2, the following shall be substituted:

"2. The appellant shall lodge his Case within twelve weeks of his lodging the petition of appeal and the respondent shall lodge his Case within twelve weeks of the service of the petition of appeal; provided that in expedited appeals the statements of case by either party shall be lodged within eight weeks of the lodging of the petition of appeal or service thereof, as the case may be.

Each party shall lodge not less than eight copies of his Case, printed or neatly typed with quarter margin, on one side of paper of the same size and quality as that used in the printing of the Record in the Court below."

(2) For Rule 3, the following shall be substituted:

"3. (1) The Case shall consist of two parts as follows:

Part I shall consist of a concise statement of the facts of the case in proper sequence. A list of the dates of the relevant events leading up to and concerning the litigation, in chronological order, and pedigree tables where necessary, shall be given at the end of the Part. It shall also set out the contentions of the parties and the points of law and fact arising in the appeal.

Part II shall set out the propositions of law to be urged in support of the contentions of the party lodging the Case and the authorities in support thereof. Where authorities are cited, reference shall be given to the Official Reports if available, and to the page at which the case begins and the page or pages at which the particular proposition is discussed and formulated. Where text-books are cited, the references shall, if possible, be to the latest available editions thereof. Where a statute, regulation, rule, ordinance or by-law is cited or relied on, so much thereof as may be necessary to the decision of the case shall be set out. At the end of the Part shall be set out a table of cases cited arranged chronologically under each point of law, and the text-books and statutes cited, references being given to the pages in the Case where they are cited.

(2) The Case shall consist of paragraphs numbered consecutively. References shall be given by page and line to the relevant portions of the Record in the margin and care shall be taken to avoid, as far as possible, the reproducing in the Case of long extracts from the Record. The Case shall not travel beyond the limits of the certificate or the special leave, as the case may be, and of such additional grounds, if any, as the Court may allow to be urged on application made for the purpose. The Taxing Officer in taxing the costs of the appeal shall, either of his own motion, or at the instance of the opposite party, enquire into any unnecessary prolixity in the Case, and shall disallow the costs occasioned thereby."

21. IN ORDER XIX,

(1) For Rule 1, substitute the following:

"1. Subject to such directions as the Chief Justice or the Court may give from time to time, and to the provisions contained in these Rules, all appeals which are ready for hearing shall as far as possible be heard in the order in which they have been registered."

(2) For Rule 2, substitute the following:

"2. The date fixed for the hearing of an appeal shall be notified on the Court notice board and it shall not be necessary to notify the parties to the appeal individually of the date fixed:

Provided that where a party appears in person, notice of the inclusion of the appeal in the monthly list shall be given to such party by post."

(3) In Rule 4, for the words 'The appellant shall not' the words 'No party shall' shall be substituted.

22. For Order XXI, the following Order shall be substituted, namely:—

(B)—CRIMINAL APPEALS

ORDER XXI

Special Leave Petitions in Criminal Proceedings and Criminal Appeals

Special Leave Petitions

1. (1) Petition for special leave to appeal shall be lodged within sixty days from the date of the refusal of a certificate by the High Court or within ninety days from the date of the judgement, final order or sentence sought to be appealed from as the case may be, whichever is longer, but in a case involving a sentence of death, the petition for special leave to appeal shall be lodged within thirty days from the date of the refusal of a certificate by the High Court or within thirty days from the date of the judgement, final order or sentence sought to be appealed from, as the case may be, whichever is longer.

Provided that—

- (i) in computing the period of ninety days the time requisite for obtaining a certified copy of the judgment sought to be appealed from shall be excluded;
- (ii) where the period of limitation claimed is sixty days or thirty days from the date of the refusal of a certificate as the case may be the time taken subsequent to the date of refusal in obtaining a certified copy of the judgment (in cases where no certified copy of the judgment had been obtained prior to the date of such refusal) shall be excluded in computing the period;
- (iii) where an application for a certificate made to the High Court is dismissed as being out of time, the period of limitation shall count from the date of the judgment sought to be appealed from and not from the date of the dismissal of the said application.
- (iv) the Court may for sufficient cause extend the time on application made for the purpose.

(2) Where the period of limitation is claimed from the date of refusal of a certificate, it shall not be necessary to file the order refusing a certificate, but the petition for special leave shall be accompanied by an affidavit stating the date of the judgment sought to be appealed from, the date on which the application for a certificate was made to the High Court, the date of the order refusing the certificate and the ground or grounds on which the certificate was refused and in particular whether the application for a certificate was dismissed as being out of time.

2. Where an appeal lies to the Supreme Court on a certificate issued by the High Court or other Tribunal no application to the Supreme Court for special leave to appeal shall be entertained unless the High Court or the Tribunal concerned has first been moved and it has refused to grant the certificate.

3. The petition shall state succinctly and clearly all such facts as it may be necessary to state in order to enable the Court to determine whether special leave to appeal ought to be granted and shall be signed by the advocate on record for the petitioner or where the petitioner appears in person, by the petitioner. The petition shall also state whether the petitioner has moved the High Court or the Tribunal concerned for leave to appeal against its decision, and if so, with what result.

4. (1) The petition shall be accompanied by a certified copy of the judgment or order sought to be appealed from, and the affidavit prescribed by rule 4 of Order XVII, and the petitioner shall lodge at least seven copies of the petition and the accompanying papers.

(2) No annexures to the petition shall be accepted unless such annexures are certified copies of documents which have formed part of the record in the Court or Tribunal sought to be appealed from, provided that uncertified copies of documents may be accepted as annexures if such copies are affirmed to be true copies upon affidavit.

(3) The High Court or the Tribunal concerned shall, on application by a petitioner intending to apply for special leave, grant him free of cost a certified copy of the judgment or order sought to be appealed from.

5. Where the petitioner has been sentenced to a term of imprisonment, the petition shall state whether the petitioner has surrendered. Unless the Court otherwise orders, the petition shall not be posted for hearing until the petitioner has surrendered to his sentence.

6. Unless a caveat as prescribed by Rule 2 of Order XVII has been lodged by the other parties who appeared in the Court below, petitions for grant of special leave to appeal shall be put up for hearing *ex-parte* but the Court may, if it thinks fit, issue notice to the respondent and adjourn the hearing of the petition, and the petition shall be posted for hearing after service of notice on the respondent. Where a caveat has been lodged as aforesaid, notice of the hearing of the petition shall be given to the caveator.

7. In urgent cases, when the Court is in vacation a petition for special leave to appeal may be heard and disposed of by a single Judge; provided that the petition does not raise a substantial question of law as to the interpretation of the Constitution.

8. (1) Where the petitioner is in jail, he may present his petition for special leave to appeal, together with the accompanying documents, including any written arguments which he may desire to advance to the officer-in-charge of the jail, who shall forthwith forward the same to the Registrar.

(2) As soon as practicable, the Registrar shall place the petition and the accompanying documents so received before the Court, and the Court may, upon perusal of the papers, reject the petition summarily without hearing the petitioner in person, if it considers that there is no sufficient ground for granting leave to appeal:

Provided that where the petitioner is represented by an Advocate on record of his choice or by an *amicus curiae* assigned to him by the Court, the Court shall not dismiss the petition without hearing the Advocate or the *amicus curiae*, as the case may be.

9. On the granting of the special leave, the petition for special leave shall be treated as the petition of appeal and shall be registered and numbered as such.

10. Upon an order being made granting special leave to appeal, the Registrar shall transmit to the Court appealed from a certified copy of the order together with a certified copy of the petition for special leave, and the affidavit, if any, filed in support thereof.

11. On receipt of the said order, the Court appealed from shall, subject to any special directions in the order, give notice of the order to the respondent and shall require the parties to take all necessary steps to have the printed record transmitted to this Court as speedily as possible and the Registrar of the Court appealed from shall certify to the Registrar of this Court that the respondent has received notice of the order of this Court granting special leave to appeal.

CRIMINAL APPEALS

12. All criminal appeals under Articles 132(1) and 131(1)(c) of the Constitution shall be lodged in this Court within 30 days from the date of the certificate granted by the High Court, and all appeals under Article 131(1)(a) and (b) of the Constitution or under any other provision of law within 30 days from the date of the judgment, final order or sentence appealed from:

Provided that in computing the period, the time requisite for obtaining a copy of the judgment or order appealed from, and, where the appeal is on a certificate, of the certificate, shall be excluded.

Provided further that the Court may, for sufficient cause shown, extend the time.

13. The appeal shall be in the form of a petition and shall be accompanied by a certified copy of the judgment or order appealed from and of the certificate where the appeal is on a certificate.

14. Where the appellant is in jail, he may present his petition of appeal and the accompanying documents, including any written arguments which he may desire to advance, to the officer-in-charge of the jail, who shall forward them forthwith to the Registrar.

15. The petition of appeal shall be registered and numbered as soon as it is lodged. On the registration of the appeal, the Registrar shall send a copy of the petition of appeal and the accompanying papers, if any, to the High Court or the Tribunal concerned, and shall cause notice of the appeal to be given, where the appeal is by a convicted person, to the Attorney-General for India or to the Advocate-General or the Government Advocate of the State concerned, or to both as the case may require, and, in cases where the appeal is by the Government, to the accused, and shall also furnish the Attorney-General for India and/or the Advocate-General or the Government Advocate of the State concerned or the accused, as the case may be, with a copy of the petition of appeal and the accompanying papers, if any.

Preparation of the Record

16 On receipt from the Court of the order granting special leave to appeal or of the copy of the petition of appeal, as the case may be, the Registrar of the Court appealed from shall arrange subject to the directions of this Court, if any, for the printing of the record in the case and for the transmission of the printed record to this Court with all convenient speed. In the preparation of the printed record the Court appealed from may include the printed paper book, if any prepared for its own use in the proceeding before it from which the appeal to this Court arises. The record shall be printed at the expense of the appellants, unless otherwise ordered by this Court, but in appeals involving sentence of death the record shall be printed at the expense of the State concerned.

17 In the preparation of the Record, the provisions of Rules 3, 3A and 3 of Order XV of these Rules shall be observed.

18 Where the appellant fails to take necessary steps to have the printed record prepared and transmitted to this Court with due diligence the Registrar of the Court appealed from shall report the default to the Registrar of this Court and the Registrar of this Court may thereupon issue a summons to the appellant calling upon him to show cause before the Court at a time to be specified in the summons why the appeal should not be dismissed. The Court may thereupon dismiss the appeal for non-prosecution or pass such orders as the justice of the case may require.

19 Where an appeal has been dismissed for non-prosecution the appellant may within 30 days of the order present a petition praying that the appeal may be restored and the Court may after giving notice of the application to the respondent if he has entered appearance restore the appeal if good and sufficient cause is shown.

20 (1) As soon as the record has been got ready the Registrar of the Court appealed from shall despatch to the Registrar of this Court not less than fifteen copies where the appeal raises a question as to the interpretation of the Constitution, and not less than 10 copies in other cases.

(2) In all cases involving a sentence of death where a sufficient number of copies of the printed record of the Court appealed from are available, they shall be despatched to this Court along with such additional records as may be necessary as soon as these are printed and where the record is to be printed afresh for the Supreme Court appeal the printed record shall be made ready and despatched to this Court within a period of sixty days after the receipt of the intimation from the Registrar of the Court of the filing of the petition of appeal or of the order granting special leave to appeal.

21 As soon as the record has been despatched, the Registrar of the Court appealed from shall give notice of the despatch of the record to the parties to the appeal and shall, after service of the notice send to the Registrar of this Court a certificate as to the date or dates on which the notice has been served.

22 Where the Court directs the record of the appeal to be prepared in this Court the Registrar of this Court shall forthwith call for the records of the case from the Court appealed from and, subject to the provisions contained in Rule 16 above and to the directions of the Court, if any, the provisions contained in these Rules relating to the preparation of the record in this Court in civil appeals shall apply, so far as applicable. Where the record is prepared in this Court the Registrar shall notify the parties as soon as the record has been made ready and certified by him.

Appearance by parties and hearing of the appeal

23 Unless the parties to the appeal have already entered appearance in the appeal after the registration thereof, they shall enter appearance in the appeal not later than one month from the date of service of the notice of despatch of the record to this Court by the Registrar of the Court appealed from or where the record is prepared in this Court, not later than one month from the date of service of the notice of certification of the record by the Registrar of this Court. Each party who has entered appearance shall be entitled to receive for his own use not more than two copies of the record.

24 (1) The parties shall file their respective statements of case in the appeal unless the Court dispenses with the same. The case shall, so far as may be conform to the requirements of a case in Civil Appeals under these Rules.

(2) The appellant shall lodge his case in the Registry within one month from the date of service of the notice of the despatch of the Record to this Court or of the certification of the Record by the Registrar of this Court as the case may be. The respondent shall lodge his case in the Registry within one month after the expiry of the time limited for his entering appearance. Each party shall lodge not less than 8 copies of his case.

(3) The provisions of Rules 5, 7 and 8 of Order XVIII shall apply where the parties are required to file their statements of Case.

25 The appeal shall be set down for hearing soon after the expiry of the time fixed for the parties for filing their Cases, or, where the filing of the Case has been dispensed with, within one month after the expiry of time fixed for the parties to enter appearance. In the hearing of the appeals, priority shall be given to appeals involving death sentences.

26 Where the accused person is not represented by an Advocate on record of his choice the Court may, in a proper case direct the engagement of an Advocate at the cost of the Government. The fee of the Advocate so engaged shall be Rs. 250 for the first day of the hearing, with a refresher where the hearing has lasted for more than 4½ hours, of Rs. 125 for each additional day of the hearing, or such reasonable fee as may be fixed by the Court hearing the appeal.

27 (1) Due notice shall be given to the accused where he is not represented, of the date fixed for the hearing of the appeal. The accused person may, if he so wishes, present his case by submitting his argument in writing and the same shall be considered at the hearing of the appeal.

(2) It shall not be necessary for an accused person in custody to be produced before the Court at the hearing unless the Court thinks fit in the interests of justice to direct him to be produced to enable him to argue his case or for other reasons.

28 Pending the disposal of any appeal under these Rules, the Court may order that the execution of the sentence or order appealed against be stayed on such terms as the Court may think fit.

29 After the appeal has been disposed of, the Registrar shall, with the utmost expedition, send a copy of the Court's Judgment or Order to the High Court or Tribunal concerned.

30 In criminal proceedings, no security for costs shall be required to be deposited, and no court fee, process fee, or search fee shall be charged, and an accused person shall not be required to pay copying charges except for copies other than the first.

23 IN ORDER XXVI,

In Order XXVI, rule 6, for the word 'Advocate' occurring in two places the words "Advocate on record", shall be substituted.

24 FOR ORDER XXXV, THE FOLLOWING SHALL BE SUBSTITUTED

ORDER XXXV.

Applications for enforcement of fundamental rights

(Article 32 of the Constitution)

1. (1) Every application under Article 32 of the Constitution shall be by a petition and shall be heard by a Division Court of not less than five Judges provided that a petition under Article 32 which does not raise a substantial question of law as to the interpretation of the Constitution may be heard and decided by a Division Court of less than five Judges and during the vacation by the Vacation Judge sitting singly.

(2) All interlocutory and miscellaneous applications connected with a petition under Article 32 may be heard and decided by a Division Court of less than five Judges, and during the vacation, by the Vacation Judge sitting singly, notwithstanding that in the petition a substantial question of law as to the interpretation of the Constitution is raised.

2 No Court fees shall be payable on petitions for *habeas corpus* or other petitions under, Article 32 of the Constitution arising out of Criminal proceedings, or in proceedings connected with such petitions.

Habeas Corpus

3 A petition for a writ of *habeas corpus* shall be accompanied by an affidavit by the person restrained stating that the petition is made at his instance and setting out the nature and circumstances of the restraint;

Provided that where the person restrained is unable owing to the restraint to make the affidavit the petition shall be accompanied by an affidavit to the like effect made by some other person acquainted with the facts, which shall state the reason why the person restrained is unable to make the affidavit.

The petition shall state whether the petitioner has moved the High Court concerned for similar relief and if so, with what result.

4. The petition shall be posted before the Court for preliminary hearing, and if the Court is of the opinion that a *prima facie* case for granting the petition is made out a rule *nisi* shall issue calling upon the person or persons against whom the order is sought, to appear on a day to be named therein to show cause why such order should not be made and at the same time to produce in Court the body of the person or persons alleged to be illegally or improperly detained then and there to be dealt with according to law.

5. On the return day of such rule or any day to which the hearing thereof may be adjourned, if no cause is shown or if cause is shown and disallowed, the Court shall pass an order that the person or persons improperly detained shall be set at liberty. If cause is shown and allowed, the rule shall be discharged. The order for release made by the Court, shall be a sufficient warrant to any gaoler, public official, or other person for the release of the person under restraint.

6. In disposing of any such rule, the Court may in its discretion make such order for costs as it may consider just.

Mandamus, Prohibition, Certiorari, Quo Warranto and other Directions or Orders

7. A petition for a direction, or order, or writ including writs in the nature of *mandamus*, *prohibition*, *quo-warranto* or *certiorari*, shall set out the name and description of the petitioner, the nature of the fundamental right infringed, the relief sought and the grounds on which it is sought, and shall be accompanied by an affidavit verifying the facts relied on, and at least six copies of the petition and affidavit shall be lodged in the Registry. The petition shall also state whether the petitioner has moved the High Court concerned for similar relief and, if so, with what result.

8. The petition shall be posted before the Court for preliminary hearing and orders as to the issue of notice to the respondent. Upon the hearing, the Court, if satisfied that no fundamental right guaranteed by the Constitution has been infringed, or that the petition is otherwise untenable, shall dismiss the petition, and if not so satisfied, shall direct a rule *nisi* to issue to the respondent calling upon him to show cause why the order sought should not be made, and shall adjourn the hearing for the respondent to appear and be heard.

9. Upon making the order for a rule *nisi*, the Court may, if it thinks fit, grant such *ad interim* relief to the petitioner as the justice of the case may require, upon such terms if any as it may consider just and proper.

10. Unless the Court otherwise orders, the rule *nisi* together with a copy of the petition and of the affidavit in support thereof shall be served on the respondent not less than 21 days before the date fixed for the hearing of the rule. The rule shall be served on all persons directly affected and on such other persons as the Court may direct.

Affidavits in opposition shall be filed in the Registry not later than 4 days before the date appointed for the hearing, and affidavits in reply shall be filed not later than 2 p.m. on the day preceding the day of hearing. Copies of affidavits in opposition or reply shall be served on the opposite party or parties, and the affidavits shall not be accepted in the Registry unless they contain an endorsement of service signed by such party or parties. Every party to the proceeding shall supply to any other party on demand and on payment of the proper charges, copies of any affidavit filed by him.

11. On the hearing of the rule, any person who desires to be heard in opposition and appears to the Court to be a proper person to be heard shall be heard, notwithstanding that he has not been served with the rule, and shall be liable for costs in the discretion of the Court if the order shall be made.

12. The Court may in these proceedings impose such terms as to costs and as to the giving of security as it thinks fit.

13. The provisions of Order XVII relating to petitions shall, so far as may be applicable, apply to petitions under this Order.

25. After Order XXXV the following Order XXXV-A shall be inserted:

"ORDER XXXV A

Applications for transfer of Criminal proceedings under section 527 of the Criminal Procedure Code"

"Notice of every application under Section 527 of the Code of Criminal Procedure shall be given to the Attorney General of India, the Advocate General of the State in which the case or appeal sought to be transferred is pending, to the accused person where he

is not the applicant, and to such other parties interested as the Court may think fit to direct."

26. IN ORDER XXXVI.

In rule 2, the words 'Subject to the directions of the Court' shall be inserted in the beginning, and for the word 'Registrar', the word 'Court' shall be substituted.

27. FOR ORDER XXXVIII THE FOLLOWING SHALL BE SUBSTITUTED:

"ORDER XXXVIII

Review

1 The Court may review its judgment or order, but no application for review will be entertained in a civil proceeding except on the grounds mentioned in Order XLVII, rule 1, of the Code, and in a criminal proceeding except on the ground of an error apparent on the face of the record.

2 An application for review shall be by a petition, and shall be filed within 30 days from the date of the judgment or order sought to be reviewed. It shall set out clearly the grounds for review and shall, unless otherwise ordered by the Court, be accompanied by a certificate from the Advocate who appeared at the hearing of the case for the party seeking review, or, where the party appeared in person, from any Advocate of this Court, that it is supported by proper grounds. The certificate shall be in the form of a reasoned opinion.

3 The application for review shall be posted before the Court for preliminary hearing and orders as to the issue of notice to the opposite party. Upon such hearing, the Court may either dismiss the application or direct notice to issue to the opposite party and adjourn the hearing for such party to be heard. An application for Review shall as far as practicable be posted before the same Judge or Bench of Judges that delivered the judgment or order sought to be reviewed.

4 Where on an application for Review the Court reverses or modifies its former decision in the case on the ground of mistake of law or fact, the Court may, if it thinks fit in the interests of justice to do so, direct the refund to the petitioner of the Court fee paid on the application in whole or in part, as it may think fit.

28. IN ORDER XL,

(1) In Rule 12, for the words 'three weeks', the words 'six weeks' shall be substituted.

(2) In Rule 17, for the words 'Counsel's fee', the words 'Advocate's fee' shall be substituted.

(3) In Rule 19, for the words 'an additional refresher', the words 'a refresher' shall be substituted, and the last sentence in the rule deleted.

(4) In rule 22, for the word 'Counsel', the word 'Advocate' shall be substituted.

(5) For Rule 43, the following shall be substituted:—

"43. For the purposes of these Rules, a folio shall be deemed to consist of two hundred words; seven figures shall be counted as one word; and more than half a folio shall be reckoned as a folio."

(6) The following shall be added as rule 44:

"44. Where the costs of any proceeding which terminated prior to the 26th of January, 1951 have to be taxed such costs shall be taxed in accordance with the taxation rules in force prior to the said date."

29. ORDER XLVIII SHALL BE OMITTED.

30. IN THE SECOND SCHEDULE, PART I,

(1) In items 1 and 3 for the words "Junior when not pleading", the words "Advocate on record when not pleading" shall be substituted.

(2) In item 2, for the figure '250', the figure '350' shall be substituted.

(3) In item 3, for the figure '150', the figure '200' shall be substituted.

(4) For item 1 substitute the following:

		Rs.	Rs
4. (a) Undefended Article 32 Petitions	Senior (if allowed).	350	175
	Junior when not led by Senior		
	and himself pleading.	200	100
	Advocate on record when not pleading but only instructing.	150	75

(b) Defended Article 32 Petitions	{ Senior (if allowed).	800	400
	{ Junior when not led by Senior and himself pleading.	500	250
	{ Advocate on record when not pleading but only instructing.	350	175

(5) In item 6, for the figures '150' and '100' the figures '200' and '150' shall be substituted respectively.

(6) In item 9, for the words "Attending taxation" the words "attending Taxation or hearing Judgment" shall be substituted

31 IN THE SECOND SCHEDULE, PART II,

(1) In item 1, for the figure '75', the figure '120' and for the figure '100', the figure '150' shall be substituted

(2) For item 3, the following shall be substituted:

(Not exceeding)

"To Junior Advocate for drawing statement of Case in appeals, pleadings in suit or special case—Rs. 300.

To Senior Advocate for settling statement of Case in appeals, pleadings in suit or special case in consultation with Junior, if allowed—Rs. 450."

(3) In item 1, for the figure '200', the following shall be substituted:

"Rs. 250 to Rs. 500 as the Taxing Officer may in his discretion allow, having regard to the nature and duration of the 'Acting' work involved in the case"

32 IN THE THIRD SCHEDULE,

(1) In Part I, after item 7 the following item shall be added as item 8:

"8 Petitions under Article 32 of the Constitution other than petitions for *habeas corpus* and petitions arising out of criminal proceedings—Rs. 50.

(2) In Part II, item 4, for the words 'half the fee paid on the original proceeding' the following shall be substituted.

"The same fee as was paid on the original proceeding"

(3) In Part III, after item 27, the following item shall be added as item 27-A:

"27 A Checking and certifying a translation made by a translator other than an officer of the Court, per folio—Re. 1".

(4) In Part III, the following items shall be added at the end:

"36. Requisition to prepare an estimate of the charges for preparation of record—Rs. 10.

37. Bespeaking a copy of the record—25 nP per page or part thereof.

38. Examining proofs—25 nP per page or part thereof

39. Cyclostyling the record, per copy—10 nP per page or part thereof.

40. Printing the record—Actual charges to be ascertained according to the prevailing rates (to be deposited in cash)

41. Preparing copies of maps—Actual charges (to be deposited in cash)

42. Certification of the record—25nP. per page or part thereof.

43. Registering a clerk of an Advocate or a firm of Advocates—Rs. 5.

44. Requisition for issue of an identity card in substitution of one that is lost or damaged—Rs. 5"

33 IN THE FIFTH SCHEDULE,

(1) In Forms Nos 2 to 5 12 to 17 20 21 23 to 26 for the word 'Advocate' wherever it occurs, the words "Advocate on record" shall be substituted.

(2) In form No. 9 for the word & figure 'Rule 5,' the word & figure "rule 15" shall be substituted.

(3) Form No. 11 shall be deleted.

(4) In form No. 19, for the words "before the Registrar", the words "before the Court" shall be substituted.

After Form 2, insert form No. 2-A as follows:

FORM NO. 2-A

(S. C. R. Order IV—Rule 22)

IN THE SUPREME COURT OF INDIA

APPLICATION FOR REGISTRATION OF CLERK

1. Name of Advocate/firm of Advocates on whose behalf the clerk is to be registered. —

2. Particulars of the clerk to be registered:

- (i) Full name (In capitals) —
- (ii) Father's Name: —
- (iii) Age and date of birth: —
- (iv) Place of birth and Nationality: —
- (v) Educational Qualifications: —
- (vi) Particulars of previous employment if any

I — (clerk above-named), do hereby affirm that the particulars relating to me given above are true.

Sd. —
clerk.

3. Whether the Advocate/firm of Advocates has a clerk already registered in his/its employ, and whether the clerk sought to be registered is in lieu of or in addition to the clerk already registered.

4. Whether the clerk sought to be registered is already registered as a clerk of any other Advocate and if so, the name of such other Advocate.

I — (Advocate) certify that the particulars given above are true to the best of my information and belief and that I am not aware of any facts which would render undesirable the registration of the said — (Name) as a clerk.

Dated —

Sd. —

Advocate/partner of firm of Advocates.

To

The Registrar,
Supreme Court.

[No. F.10/59-S.C.—MJ (1)]

By Order of the Court
ARINDAM DUTT,
Registrar.